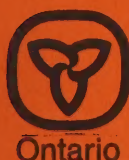
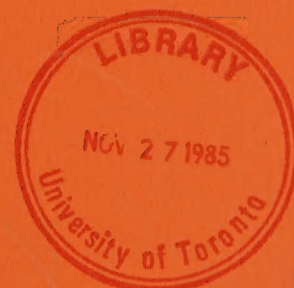
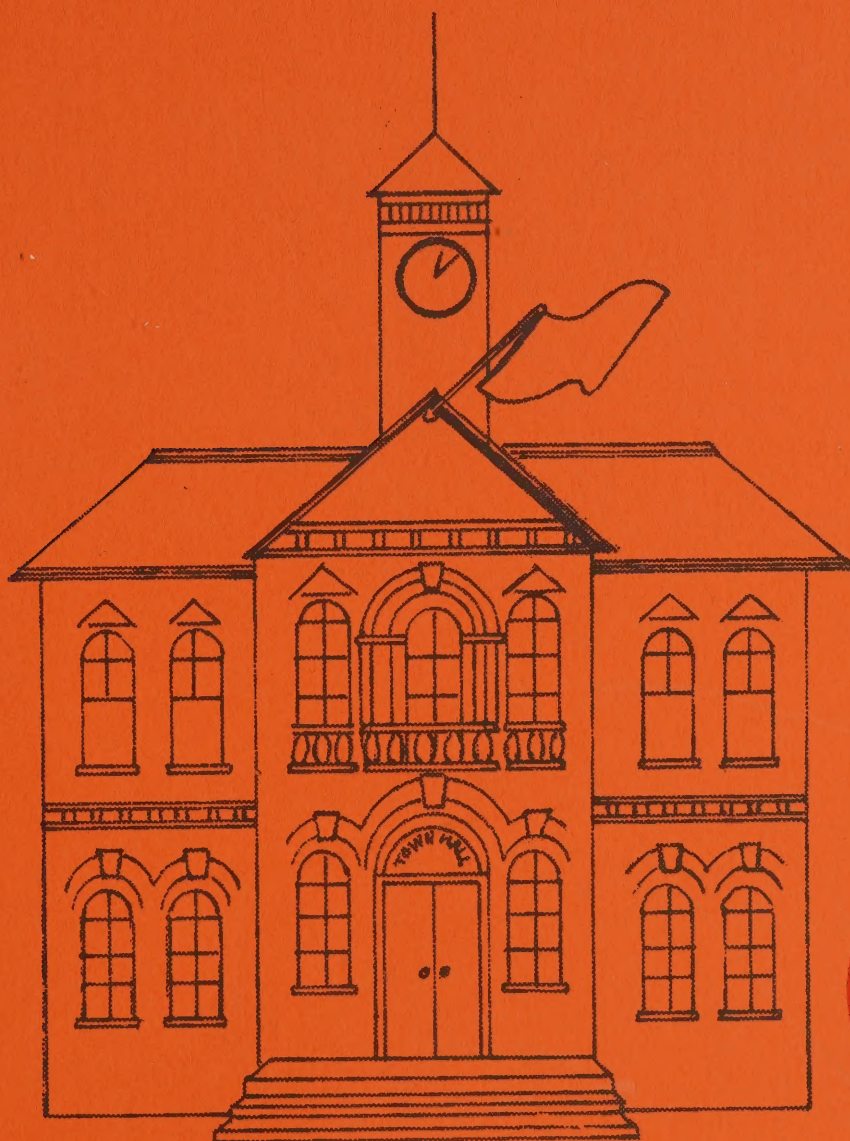


October, 1985

# BULLETIN 55

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## **AMENDMENTS TO *The Municipal Elections Act***



Ministry of  
Municipal Affairs

Ontario

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This report highlights the recent amendments to the *Municipal Elections Act* contained in Bill 26 which received Royal Assent on June 24, 1985.

Some of these amendments will have a direct effect upon the municipal elections to be held on November 22 of this year.

All sections in Bill 26 except sections 3, 4, 5, and 7 are designed to take effect from March 31, 1985. Sections 3, 4, 5 and 7 come into force on July 1st, 1985.

The amendments contained in Bill 26 bring the *Municipal Elections Act* into conformity with Section 15 of the *Canadian Charter of Rights and Freedoms*. Certain municipal provisions disqualified from being municipal elections will now be able to exercise their franchise and vote in the local elections.

It is important that the public be made aware of the changes to the *Municipal Elections Act* and Bill 26.

Copies of the Act and Bill 26 are available from:

# ***AMENDMENTS TO The Municipal Elections Act***

Publication Centre  
2nd Floor  
505 Bay Street  
Toronto, Ontario  
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Ministry of  
Municipal Affairs

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## INTRODUCTION

This bulletin highlights the recent amendments to the Municipal Elections Act contained in Bill 38 which received Royal Assent on October 28, 1985.

Some of these amendments will have a direct effect upon the municipal elections to be held on November 12 of this year.

All sections in Bill 38 except sections 3, 4, 6, and 7 are deemed to have come into force on September 3rd, 1985. Sections 3, 4, 6 and 7 come into force on July 1st, 1988.

The amendments contained in Bill 38 bring the Municipal Elections Act into conformity with Section 15 of the Canadian Charter of Rights and Freedoms. Certain persons previously disqualified from voting in municipal elections will now be able to exercise their franchise and vote in this year's elections.

It is suggested that this bulletin be read in conjunction with the Municipal Elections Act and Bill 38.

Copies of the Act and Bill 38 are available from:

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## Bill 38

### Definition of Spouse - Section 1, paragraph 37: Subsection 67(3)

Section 1 is amended by the addition of paragraph 37 which sets out a definition of "spouse". The term "spouse" means a person of the opposite sex to whom the person is married or with whom the person is living outside marriage in a conjugal relationship of at least one year's duration.

Subsection 67(3) of the Act is amended by deleting "husband or wife" in the fourth line and adding "or spouse" to reflect the definition established in section 1, paragraph 37.

### Age of Scrutineers - Subsection 6(1)

The subsection is amended to raise the minimum age of scrutineers from sixteen to eighteen years.

### Qualifications to Vote - British Subject Status-Clause 12(b): Clause 13(b): Section 15: Subsection 33(2)

The amendments to clauses 12(b) and 13(b), section 15 and subsection 33(2), delete the reference to "other British subjects" contained in each. In the past, in order to qualify as a municipal elector (in addition to other requirements), a person must have been a "Canadian citizen or other British subject".

The effect of the amendment removes the right of persons other than Canadian citizens to vote in the municipal elections.

These amendments **do not come into effect until July 1, 1988.** The ability of "other British subjects" to vote in the 1985 municipal elections remains in force.

### Right to Vote - Section 14

Section 14 is repealed and replaced with a new section. Every person who is an inmate in a penal or correctional institution under sentence of imprisonment is disqualified from voting in any municipal election.

The old section 14 disqualified from voting: all inmates in penal or correctional institutions; all judges; and patients in a psychiatric facility who had been found incompetent under certain provisions of the Mental Health Act or the Mental Incompetency Act.

The amendment will permit those previously disqualified, except inmates who are under sentence, to vote in the municipal election.

The amendment relating to inmates not under sentence, psychiatric patients and judges is retroactive to September 3rd, 1985. This retroactivity ensures that the residency requirements will have been met. As long as the other electoral qualifications are met, they will be able to vote in the 1985 and subsequent municipal elections.

#### Mandatory Polling Places - Subsection 47(1)

Subsection 47(1) is repealed and replaced with a new subsection which requires a polling place in psychiatric facilities. As well, a polling place is also required in a nursing home or any other institution of twenty beds or more in which **chronically ill or infirm persons reside** and in retirement homes of fifty beds or more.

Previously, the establishment of a polling place in a nursing home or other institution of twenty beds or more was not mandatory. There was also no requirement to have a poll at a psychiatric facility under the old subsection 47(1).

#### Proxy Voters - Subsections 67(1) clause (d)

Subsection 67(1) is amended by the addition of clause (d) which permits inmates in a penal or correctional institution **not under sentence** to vote by proxy in the polling subdivision in which the inmate would normally reside. This amendment applies even though the inmate's name may not have been entered in the polling list and the inmate may not have obtained a clerk's certificate under section 33 of the Act.

An inmate not under sentence must complete a Form 1 as prescribed in Bill 38 in order to vote by proxy. The person appointed by the inmate as his or her voting proxy must be an eligible elector in the municipality in which the inmate normally resides.

The voting proxy must apply to the clerk of the municipality before 5:00 p.m. on polling day in order to obtain the clerk's certification in Form 1.



If the voting proxy applies to the deputy returning officer at the poll to have the inmate's name and normal address entered in the polling list, the deputy returning officer must enter them where the name and normal address do not already appear.

The voting proxy is entitled to a ballot if:

- the statutory declaration in Form 1 is completed;
- the deputy returning officer is satisfied as to the voting proxy's identify; and,
- the person takes the "Oral Oath of Proxy Voter at the Poll."

Upon the receiving the ballot the voting proxy may vote.

**Definition of Spouse - Election Expenses - Clause 12 (1) (e)**

Clause 12(1)(e) is repealed. The definition of spouse as it pertains to an election expenses by-law is deleted and the new definition contained in section 1, paragraph 37 of the Act applies.





For more information, write or call any of the field offices of the Municipal Operations Division. They are located at these addresses.

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Any question or comments regarding the contents of this publication may be addressed to the Ministry at the above Toronto address and telephone number.



